

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

**TOMAS S. JIMENEZ,
individually and on behalf
of all others similarly situated,**

Plaintiff,

v.

NOVA MUD, INC.

Defendant.

§
§
§
§
§
§
§
§
§
§
§

Docket No. 2:15-CV-01058-MV-SMV

JOINT MOTION TO FILE UNDER SEAL

Pursuant to Fed. R. Civ. P. 5.2(d), Plaintiff TOMAS S. JIMENEZ, individually and on behalf of all others similarly situated, including all Opt-In Plaintiffs herein (“JIMENEZ”) and Defendant NOVA MUD, INC. (“NOVA”) respectfully request that this Court enter an order permitting them to file under seal the parties’ Confidential Settlement Agreement and Release. The Joint Motion to Approve Confidential Settlement Agreement and Release and Dismiss with Prejudice (“Motion to Approve”) itself details the terms of the parties’ settlement, and the parties wish to attach the settlement agreement as an exhibit to facilitate the Court’s review of its fairness. However, one of the express and material terms of the settlement agreement is confidentiality as to the settlement amount and terms, and the parties are otherwise interested in keeping this information confidential.

The settlement involves only the claims and potential claims of individuals, and all parties are represented by experienced and competent counsel of their choosing. Accordingly, any public interest in the settlement terms is minimal and outweighed by the strong public policy favoring confidential settlement negotiations and the prompt settlement of litigation. A narrowly-tailored order sealing the motion and exhibit is consistent with practice in this District. *See, e.g.*, Order

Granting Motion to File Under Seal, *Tello v. Pro's ABQ Ranch Markets, LLC*, 1:15-CV-253-WPL-GBW, Dkt. 5 (May 22, 2015), *see also* Order Granting Joint Motion to File Under Seal, *Archuleta v. MVCI Energy Services, Inc.*, 1:16-CV-112-MCA-CG, Dkt. 34 (Oct. 11, 2016). Plaintiffs and Defendant therefore respectfully request leave to file the above-referenced motion under seal. If the Court grants the Motion to Approve, the Order the Court enters approving the settlement need not be filed under seal, as it will not contain any of the confidential information the parties seek to prevent from public disclosure.

WHEREFORE, pursuant to Fed. R. Civ. P. 5.2(d), the parties respectfully request the Court to enter an order allowing Plaintiffs to file their Joint Motion to Approve Confidential Settlement Agreement and Release and Dismiss with Prejudice, with attached exhibit, under seal.

Respectfully submitted,

/s/ Fernando M. Bustos

FERNANDO M. BUSTOS

New Mexico Federal Bar No. 16-19

Texas Bar No. 24001819

Email: fbustos@bustoslawfirm.com

AARON M. PIER

New Mexico Federal Bar No. 16-20

Texas Bar No. 24041694

Email: apier@bustoslawfirm.com

1001 Main Street, Suite 501

Lubbock, Texas 79401

Telephone: (806) 780-3976

Facsimile: (806) 780-3800

COUNSEL FOR DEFENDANT

/s/ Andrew W. Dunlap

Michael A. Josephson
Texas Bar No. 24014780

Andrew Dunlap
Texas Bar No. 24078444

Lindsay R. Itkin
Texas Bar No. 24068647

Jessica M. Bresler
Texas Bar No. 24090008

**Fibich, Leebron, Copeland,
Briggs & Josephson**

1150 Bissonnet St.
Houston, Texas 77005
Tel: 713.751.0025
FAX: 713.751.0030
mjosephson@fibichlaw.com
adunlap@fibichlaw.com
litkin@fibichlaw.com
jbresler@fibichlaw.com

AND

Richard J. (Rex) Burch
Texas Bar No. 24001807
Bruckner Burch, P.L.L.C.
8 Greenway Plaza, Suite 1500
Houston, Texas 77046
Tel: 713.877.8788
FAX: 713.877.8065

AND

Justin R. Kaufman
Rosalind B. Bienvenu
ROBINS CLOUD, LLP
505 Cerrillos Rd., Ste. A209
Santa Fe, New Mexico 87501
Telephone: (505) 986-0600
Telecopier: (915) 986-0632
jkaufman@heardrobins.com
rienvenu@heardrobins.com
COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of February, 2017, a true and correct copy of the foregoing was served on all counsel of record via the Court's ECF filing system.

/s/ Fernando M. Bustos

FERNANDO M. BUSTOS